THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.NO.26902 OF 2005

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Dated 09-03-2006

Between:

K.Vijaya

…Petitioner

A n d

Registrar, J.N.T.U, Hyderabad and another

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.NO.26902 OF 2005

JUDGMENT:

The petitioner joined three year M.C.A. Course in the year 2003, in the 2nd respondent-college, which is affiliated to the 1st respondent-University. Each year comprises of two semesters. The petitioner failed in three subjects in I semester and one subject in III semester. She appeared in the IV semester examination in July, 2005. The Rules, prescribed by the University, mandate that a candidate must not have more than 4 backlogs, for being promoted to the V semester (III Year).

There was delay in announcement of the results of the IV semester. Therefore, the petitioner and several other candidates were provisionally promoted to the V semester, by securing an undertaking, that, in case it emerges that they have more than 4 backlogs, after the results of IV semester are announced, they shall not be entitled to pursue the V semester, further.

The results of the IV semester were announced in October 2005, and the petitioner failed on one subject. Thereby, she had five backlogs, by the time she completed V semester.

The V semester examinations were due to be held

on 10-12-2005. The 2nd respondent issued an order dated

03-12-2005, which is to the effect that the petitioner does not have the minimum percentage of attendance, in theory and practical,

in V semester, and as such, she came to be detained. The same is challenged in this writ petition.

On behalf of the 2nd respondent, a counter-affidavit is filed, and certain documents are also filed. It is stated that though the petitioner was promoted to the V semester, subject to her not having more than four backlogs, after the results of IV semester are announced, and it ultimately emerged that she has five backlogs.

It is also pleaded that, she did not have the requisite percentage of attendance in the V semester also. It is stated that the notice dated 03-12-2005 was issued in a routine manner, and the basic reason for not permitting the petitioner to appear in the V Semester examination that she had more backlogs than four.

Sri M.Bramha Reddy, learned counsel for the petitioner submits that the 2nd respondent has subjected the petitioner to severe hardship for the past few months, and that the petitioner had to file a writ petition on earlier occasion. He contends that in the context of permitting the petitioner to take internal examinations in the subjects in which she failed, the respondents took an illegal stand, and this Court took exception to the same in its order passed in W.P.No.24498 of 2005. He further submits that the 2nd respondent had permitted many students, to appear in the V semester, though they have more than four backlogs, and though there was shortage of attendance.

Sri K.Rathangapani Reddy, learned counsel for the

1st respondent and Sri S. Subba Reddy, learned counsel for the 2nd respondent, on the other hand, submit that the Rules, prescribed by the University, are very clear to the effect that any candidate, who has more backlogs than four, is not entitled to be promoted to the V semester. Sri Subba Reddy, contends that though the petitioner was provisionally promoted to the V semester, along with others, she did not pay the fee for that semester. He also submits that this Court already held in W.P.No.24498 of 2005, that the petitioner cannot be promoted to the V semester, since she has four backlogs and the same was affirmed by the Division Bench of this Court in the Writ Appeal, filed by the petitioner.

It is not in dispute that the Rules, prescribed by the University, mandate that a candidate would be entitled to be promoted to the V semester, if he or she does not have more than four backlogs. Lot of controversy arose, on account of the delay in announcement of the results of the examinations of the IV semester, held in July 2005, in which the petitioner had also appeared. The University took almost three months, for announcement of the results. The next semester commenced in the meanwhile. It was in this context, that the candidates were permitted to pursue V semester, subject to their filing an undertaking to the effect that they shall not be entitled for the benefit of the same, in case, they have more than four backlogs, after the results of IV semester are announced.

As observed earlier, the petitioner had four backlogs, by the time she appeared the IV semester. The results were declared on 25-10-2005, and the petitioner failed in one subject, in the
IV semester. Thereby, her backlogs became 5. She would certainly have been entitled to pursue the V semester, had she cleared all the papers in IV semester. However, she has failed in one subject.

There was some inadvertent mistake on the part of the 2nd respondent, in displaying the impugned order dated 03-12-2005, where it was stated that the petitioner was detained, on account of shortage of attendance. Separate orders were issued by them, on 19-12-2005, in the form of a reply to the petitioner, wherein it was indicated that she has more than four backlogs. It was also indicated that the petitioner did not pay the fee for the V semester (III Year).

Though extensive submissions were made by the learned counsel for the petitioner, touching on various aspects, once it has emerged that the petitioner had 5 backlogs,

by the time the results of IV semester were announced, no relief can be granted to the petitioner. This Court cannot exempt the petitioner, from the Rules prescribed by the University. In fact, this aspect of the matter has already been clarified by this Court, in W.P.No.24498 of 2005, filed by the petitioner.

The University ought to have been prompt, in structuring the course and announcing the results, without leaving any room for uncertainty. The petitioner and many students had to pursue the course in the V semester for quite some time and discontinued it, after the results were declared. Such a situation could have been avoided. There is a likelihood of the same student being required to pay the fee for the semesters, twice, in such cases. A student cannot be penalized, on account of such uncertainty, for which he is not responsible. There is some controversy, as to whether the petitioner has paid the fee for the V semester, at all.

For the foregoing reasons, the writ petition is disposed of, holding that,

a. the petitioner shall not be entitled to be promoted to the V semester, on account of her having more than 4 backlogs.

b. The 2nd respondent shall be entitled to collect the fee, for V semester, only once, from the petitioner, and if it is proved that she paid the fee, for the V semester, during the current academic year, she shall not be required to pay the same in the next academic year, when she completes the course.

c. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt. 09–03-2006.

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